



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

December 19, 1995

Mr. Robert P. Rose
Assistant City Attorney
City of Austin
Department of Law
P.O. Box 1088
Austin, Texas 78767-8828

OR95-1447

Dear Mr. Rose:

You have asked whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 35256.

The City of Austin (the "city") received a request for information about the amounts and types of narcotics seized during investigations of certain nightclubs in Austin. The requestor also sought information concerning the costs of these investigations. You have submitted to this office for review a representative sample of the documents at issue.¹ You contend that these documents are excepted from disclosure pursuant to section 552.108.

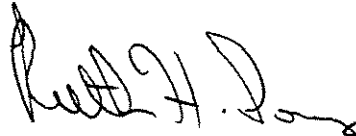
When applying section 552.108, this office distinguishes between cases that are still under active investigation and those that are closed. Open Records Decision No. 611 (1992) at 2. In cases that are still under active investigation, section 552.108 excepts from disclosure all information except that generally found on the first page of the offense report. *See Houston Chronicle Publishing Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.--Houston [14th Dist. 1975], writ ref'd n.r.e. per curiam, 586 S.W.2d 559 (Tex. 1976); Open Records Decision No. 127 (1976).

¹We assume that the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. *See* Open Records Decision No. 499 (1988), 497 (1988). Here, we do not address any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

The city contends that the investigations at issue are active. The requestor contends that the investigations have concluded. For purposes of section 552.108, an investigation can be active until the case is closed. Attorney General Opinion MW-446 (1982) at 2. A case may be closed due to a conviction or acquittal, or by administrative decision. Open Records Decision No. 372 (1983) at 4. The information provided this office indicates that the investigation is ongoing for purposes of section 552.108. Thus, except for the type of information generally found on the first page of an offense report, the records at issue may be withheld at this time pursuant to section 552.108.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,

A handwritten signature in black ink, appearing to read 'Ruth H. Soucy', with a stylized flourish at the end.

Ruth H. Soucy
Assistant Attorney General
Open Records Division

RHS/rho

Ref.: ID# 35256

Enclosures: Submitted documents

cc: Mr. or Ms. Remi Barron
Investigative Reporter
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10700 Metric Boulevard
Austin, Texas 78758
(w/o enclosures)